FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

JUN 23 2017

MATTHEW J. DYKMAN
CLERK

AO 106 (Rev. 04/10) Application for a Search Warrant

UNITED STATES DISTRICT COURT

for the
District of New Mexico

In the Matter of the Search of
(Briefly describe the property to be searched or identify the person by name and address)

David BARBER
Year of Birth: 1977
SSN: 1184

Case No. 17mr546

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property *(identify the person or describe the property to be searched and give its location)*:

The person known as David BARBER with Year of Birth: 1977, SSN: 1184

located in the __________ District of New Mexico, there is now concealed *(identify the person or describe the property to be seized)*:

DNA evidence; to wit; Buccal cell swab, sufficient for DNA analysis, which would be material evidence in a criminal prosecution.

The basis for the search under Fed. R. Crim. P. 41(c) is *(check one or more)*:

- ☑ evidence of a crime;
- ☑ contraband, fruits of crime, or other items illegally possessed;
- ☐ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	*Offense Description*
Title 18 U.S.C 922(g)(1)	Convicted felon in possession of a firearm
Title 18 U.S.C. 922(u)	Theft from a Federal Firearms Licensee (FFL)

The application is based on these facts:

See attached affidavit

- ☑ Continued on the attached sheet.
- ☐ Delayed notice of ____ days (give exact ending date if more than 30 days: ________) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

[signature]
Applicant's signature

Erik Haanes, Special Agent, ATF
Printed name and title

Sworn to before me and signed in my presence.

Date: 6-23-17

[signature]
Judge's signature

City and state: Albuquerque, New Mexico

Kirtan Khalsa U.S. Magistrate Judge
Printed name and title

AFFIDAVIT FOR SEARCH WARRANT

1. Erik Haanes, a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), being duly sworn, deposes and states:

2. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). Beginning in September of 2014, I attended a 26-week ATF academy in Glynco, Georgia that certified me as an ATF Special Agent.

3. As a Special Agent with the ATF and my prior experience as a law enforcement officer, I have conducted physical surveillance, interviewed sources of information and defendants, served search warrants and arrest warrants, investigated firearms and drug trafficking, National Firearms Act (NFA) violations, Hobs Act violations, assisted in undercover firearms and narcotic investigations, and assisted with the interception of wire communications. Further, I have testified in judicial proceedings in federal court involving prosecutions relating to violations of federal firearms laws.

4. I am an investigative, or law enforcement officer of the United States within the meaning of Title 18, United States Code, Section 2510 (7), in that I am an officer of the United States who is empowered by law to conduct investigations and make arrests for the offenses enumerated in Title 18 and 26, United States Code.

5. This affidavit is intended to show only that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

PROBABLE CAUSE

6. On April 24, 2017, Ron Peterson Firearms (Federal Firearms Licensee (FFL) # 5-85-001-01-8M-00869), located in Albuquerque, NM, was burglarized by two (2) individuals which resulted in the theft of twelve (12) firearms. One of the individuals was identified by your Affiant as David BARBER. On June 21, 2017, a Federal arrest warrant was issued for BARBER's arrest for Theft from a Federal Firearms Licensee (18 U.S.C 922(u)), and Convicted Felon in Possession of a Firearm (18 U.S.C. 922(g)(1)).

7. On May 11, 2017, Albuquerque Police Department (APD) detectives executed a search warrant on a residence (located in a HUD housing facility complex) in southeast Albuquerque reference to an unrelated incident. Upon execution of the warrant detectives located four (4) firearms, three (3) of which were previously stolen from Ron Peterson Firearms (on April 24, 2017). The firearms were identified as:

1) Smith & Wesson, model MP15-22, .22 long rifle with serial number DZW3226 (Stolen from Ron Peterson Firearms)

2) Browning, model BPS, 12 gauge shotgun with serial number 63535NXT02 (Stolen from Ron Peterson Firearms)

3) Colt, model Agent, .38 special revolver with serial number 67079R (Stolen from Ron Peterson Firearms)

4) Maverick, model 88, 12 gauge pump action weapon made from a shotgun with serial number MV78406M

8) Prior to May 11, 2017, BARBER had been observed in the residence by the HUD housing facility manager. Additionally, prior to detectives executing the search warrant on the residence, detectives made contact with BARBER in the parking lot of the HUD housing facility. Detectives identified BARBER in the parking lot and learned that he had active warrants for his arrest. Detectives attempted to arrest BARBER at which time BARBER engaged in a physical altercation with detectives and fled the scene on foot.

9) Based on the above listed information your Affiant is confident the firearms located in the residence were likely possessed and handled by David BARBER. Furthermore, your Affiant knows it is common for an individual's DNA to be transferred to items handled by that individual; in this case, the items are firearms. Based upon these facts, your Affiant respectfully requests that a search warrant be issued for David BARBER, to collect a sample of buccal cells for forensic analysis and for use as evidence in court as your Affiant opines there is probable cause to suggest David BARBER previously and unlawfully handled the above firearms.

Respectfully submitted,

Erik Haanes
Special Agent
ATF

Subscribed and sworn to before me
on June 23, 2017:

UNITED STATES MAGISTRATE JUDGE